

The Northern Virginia Long-Term Care Ombudsman Program presents this
“Long-Term Care News & Tips Online”

March 2006

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1. NVLTCOP Volunteer Ombudsman Program wins National Award

Northern Virginia Long-Term Care Volunteer Ombudsman Program has been selected as a winner in the 2006 Acts of Caring Awards Program, which recognizes top county volunteer programs in the country. The awards program is carried out by the National Association of Counties (NACo) in partnership with Freddie Mac.

The Volunteer Ombudsman educates facility residents and their families about the Residents' Bill of Rights and the ombudsman program; assists residents and families to advocate for themselves; advocates on behalf of residents who cannot speak for themselves; and mediates and assists to achieve satisfactory resolutions to residents' complaints within the facility, whether for individuals, groups of residents or an entire facility. The Volunteer Ombudsmen also attend resident and family council meetings and provide consultation to facility staff on resident rights issues. During 2005 sixty-six (66) Volunteer Ombudsmen regularly visited 62 nursing and assisted living facilities, contributing over 7,000 hours.

The five paid staff of the ombudsman program could not meet the area's demands for service without the Volunteer Ombudsmen. They plan a critical role in the mission of the ombudsman program and we are grateful that their caring work has been recognized with this award!

The following information has been obtained from the National Ombudsman Resource Center

2. Washington ombudsmen fight new ban on smoking affecting residents

The Washington Ombudsman Program is trying to help residents of long-term care facilities who find that they can no longer smoke in their facilities after a new anti-smoking law went into effect on December 8, 2005. The law, which is the toughest in the country, not only bans smoking indoors, but also requires a 25-foot smoke free buffer around doorways; windows that open; and ventilation intakes. Jeff Crollard, attorney for the Washington Ombudsman Program, drafted a bill to allow smoking rooms in long-term care facilities, but the legislation died in committee. One resident, a retired doctor, has been very vocal in speaking up against the new ban. He notes that it is irksome to be told you can't smoke in your own home and that the law is forcing him and other residents to take unnecessary risks in order to get to a structure that is far enough away from the facility to meet the bans requirements.

Source: *Seattle Post-Intelligencer*, February 20, 2006

3. Fewer Ohioans going into nursing homes

Researchers at Scripps Gerontology Center of Miami University in Ohio have found that although the state's population of those 85 and older has more than doubled in the past decade, fewer are ending up in nursing homes. In addition, when individuals do end up in nursing homes, they recover more quickly and return home. The study showed only 9% of those admitted to a nursing home was still there two years later. Part of the reason is that many people now enter nursing homes to complete what used to be a longer hospital stay. A larger factor, however, is the growing array of alternatives to nursing homes. Since 2001, the number of Ohioans enrolled in the states home health care program has jumped 40% to 25,000, with 1,300 on a waiting list. The program provides help to people 60 and older who are eligible for Medicaid and qualify for nursing home care – at one-fourth the cost of nursing home care.

Source: *The Plain Dealer*, February 24, 2006

4. Beverly sale goes through

After more than a year of uncertainty, shareholders have approved the sale of Beverly Enterprises Inc. for \$12.50 a share in cash. Beverly will become a privately operated company when the deal with buyer Pearl Senior Care, Inc., a subsidiary of Fillmore Capital Partners LLC, closes by March 15. The deal is valued at \$2.29 billion, including about \$1.8 billion to pay for shares and about \$220 million for severance costs and transaction fees, along with repayment and refinancing of debt. Ronald Silva, president and chief executive of Fillmore, said the company does not know if it will choose to remain headquartered in Arkansas because we're under attack." A lawsuit was recently filed against Beverly, Fillmore and executives alleging the sale is a fraudulent transaction because it will leave the company with high debt and little money to pay resident claims. The lawsuit seeks to force Beverly to post bond or place millions of dollars in a trust to pay liability claims. Silva stated that the state needs additional tort reform" for the nursing home industry to limit huge liability awards. Nancy Allison, president of Arkansas Advocates for Nursing Home Residents (AANHR), said the advocacy group will fight any attempts to implement changes in the tort system for nursing home owners. There is a general tort reform bill passed in Arkansas, and for the health-care industry to have their own special form of tort reform is ludicrous, she said. AANHR also expressed outrage at the more than \$109 million in compensation and benefits packages that Beverly executives will receive from the merger. That \$109 million could hire more than 2,500 new nurse aides to assist nursing home residents in every single Beverly home," Allison commented.

Source: *Arkansas Democrat Gazette*, February 15, 2006

5. Virginia considers sex offender issue

The state of Virginia is determining what steps to take regarding sex offenders in nursing homes. After having introduced a bill to require notification to nursing home residents of the presence of a person convicted of a sexual offense, the legislature is now moving toward studying the issue first. The current intent is to study the monitoring of sex offenders not only in nursing homes, but in assisted living facilities as well. The study is to be completed before the start of the next General Assembly session so that its findings/recommendations can lay the groundwork for introduction of appropriate legislation in the 2007 session. For more information, contact Joani Latimer, Virginia State Ombudsman.

Source: Email from Joani Latimer, February 8, 2006

6. Former DE surveyor claims violations were downgraded

A former surveyor in Delaware is claiming that serious violations were downgraded or eliminated from survey reports by the state Division of Long Term Care Residents Protection. The surveyor, Dianne Roberts, has charged that Carol Ellis, the Division Director, removed serious violations from her survey teams 2004 reports before they were submitted to the Centers for Medicare & Medicaid Services. Roberts also stated that Ellis put two facilities into compliance, despite the fact that her team had found them to be out of compliance with federal regulations. A Delaware Sunshine Committee heard these claims at a hearing on February 22. Ellis acknowledged that most survey reports are edited, but said few of the changes one in nine adjust the scope or severity of violations found in a facility. Ellis told committee members, "Different nurses can look at the same information and come to different conclusions." She also noted that some items are deleted to shorten reports. JeanMarie McKinney, the division's quality assurance administrator who has an extensive nursing background, said she and a nutritionist agreed with downgrading an actual harm deficiency to a potential harm level because of an underlying physical condition the resident had. Roberts disagreed and said the Division Director's lack of medical background raises questions about decisions she makes to downgrade the severity of a violation found by her staff during a weeklong survey of a nursing facility.

Source: *The News Journal*, February 23, 2006

7. Many nursing home residents not adequately treated for pain

A study recently published in the *Journal of the American Geriatrics Society* found that many nursing home residents have poorly controlled pain due to inadequate medication treatment. An interdisciplinary team of researchers used a Nursing Home Pain Medication Appropriateness Scale (PMAS) to screen the overall suitability of nursing homes' prescribing practices. They found that the "mean" total PMAS was only 64% of optimal. They also determined that less than 50% of the residents studied who had "predictably recurrent pain" were actually receiving pain medication. Poor pain management has a tendency to lower a person's overall quality of life and leads to other health consequences, including sleep deprivation, poor nutrition, depression and delayed healing.

Source: *Medical News Today*, March 2, 2006; McKnight's Long Term Care News and Assisted Living

8. NY exhibit displays resident art

A new exhibit at the Albany Institute of History and Art highlights the work of nursing home residents from around the state of New York. The artwork came from the Foundation for Quality Care and the New York State Health Facilities Associations first-ever art contest. The two groups wanted to spotlight with a 2006 calendar the individuality and creativity of those living in nursing homes.

Kristen Schweigard of the Institute served as a juror and, after viewing the more than 100 pieces submitted, put together the exhibit that is on display until February 28.

Source: Times Union, February 16, 2006

9. Andrew Jenks, Room 335

Andrew Jenks, a 19-year old filmmaker and student, has directed and produced the film, Andrew Jenks, Room 335, which documents his experience living in a Florida assisted living facility. According to Jenks, for one summer I did all the things that old people do. I wanted to find the answer to the question: how do they feel now that they face the end of their lives? By the end of the summer I had unimaginable bonds with some of the greatest, and oldest, people that life has to offer. I came to realize that it is in such friendships and the spirit in which you live that meaning is to be found. To learn more about the film, go to: www.andrewjenksroom335.com/.

Source: www.andrewjenksroom335.com/.

10. MI takes steps to help direct care workers

Efforts are underway on several fronts in Michigan to improve wages and working conditions for direct care workers. Governor Jennifer Graham's proposed update of the licensing rules that govern the state's adult foster care and homes for the aged would require homes to regularly report staffing ratios and wage and benefit levels to a statewide information clearinghouse. In addition, the governor's proposed budget includes \$20 million to raise wages for home health workers. According to a press release issued by the Michigan Quality Home Care Campaign (MQHCC), about 50,000 people receive care under the state's Home Help program from caregivers who earn an average of \$6.07 an hour and are not provided any health insurance, leading to chronic turnover problems among home care workers. In a survey by the state of Michigan's it says, 35 percent of Home Help consumers said they were forced to change their care provider in the past year - 78 percent of those people saying they had gone through two or three caregivers in a year." MQHCC is a coalition of senior and disability rights groups, religious leaders, civic organizations and others.

Source: Quality Jobs/Quality Care, February 24, 2006

11. HHS to repay states for dual eligible drug costs

The U.S. Department of Health and Human Services (HHS) has announced a new demonstration program to repay states for prescription medications for dual eligibles. States incurred these costs this year as the Medicare Part D Prescription Drug Benefit began. Forty-four states and the District of Columbia are expected to participate. Six remaining states — Idaho, Indiana, Iowa, Michigan, Nebraska, and South Carolina — did not apply for repayments. Participating states will be reimbursed for drug costs for dual eligible beneficiaries. Medicare will pay states the difference between the amount they received from Medicare drug plans and the amount they actually paid for dual eligibles Part D covered drugs. The demonstration will also cover states administrative costs.

Source: McKnight's Long Term Care News & Assisted Living, February 22, 2006

12. CMS sets exception process for therapy caps

The Centers for Medicare & Medicaid Services (CMS) has released information on how the exceptions process for therapy caps will work. Therapy caps were enacted by the Balanced Budget Act of 1997 and then implemented in 1999 and for a short time in 2003. A moratorium was placed on the caps in 2004 and 2005. However, the moratorium is no longer in place, and caps were implemented

January 1, 2006. Although services are no longer to be provided once a Medicare beneficiary has received \$1,740 in physical therapy and speech language pathology services combined or \$1,740 in occupational services, Congress voted to implement an "exceptions process" that would allow services to be continued under certain circumstances. Medicare Part B beneficiaries who are expected to exceed either of the two \$1,740 limits could qualify in two ways, said Kim Brandt, Director of Program Integrity at CMS. They can have either an automatic exception based on face value criteria or use a paperwork process whereby the agency must respond in 10 days or the treatment will automatically be authorized. It is estimated that as many as 80% of the 800,000 patients who exceed the therapy cap this year will qualify for the auto-exception process. Brandt also outlined the timetable and process for this year's therapy cap exception rule. She cited April 1 as the date the exception process should be operational. CMS is preparing to release documents intended to specify general clinical criteria for the two types of exceptions.

Source: McKnight's Long Term Care News & Assisted Living, February 14, 2006; www.hcpro.com/content/55395.pdf

13. Drugs linked to mild cognitive impairment

A study published in the February 2006 online edition of the *British Medical Journal* demonstrates that use of anticholinergic drugs by the elderly can result in significant deficits in cognitive functioning, causing some individuals to be classified as mildly cognitively impaired. The study assessed 372 people of at least 60 years of age from 63 randomly selected general practices in southern France. Of these, 9.2 % regularly used anticholinergic drugs during the year prior to their assessment. These individuals, when compared with those who did not use the drugs, demonstrated poorer performance on reaction time, attention, delayed non-verbal memory, narrative recall, visuospatial construction, and language tasks but not on tasks of reasoning, immediate and delayed recall of wordlists, and implicit memory. Eighty % of the continuous users were classified as having mild cognitive impairment compared with 35% of non-users, and anticholinergic drug use was a strong predictor of mild cognitive impairment." Many commonly prescribed drugs have anticholinergic effects, including antiemetics, antispasmodics, bronchodilators, antiarrhythmic drugs, antihistamines, analgesics, antihypertensives, antiparkinsonian agents, corticosteroids, skeletal muscle relaxants, ulcer drugs and psychotropic drugs. More than 30 % of elderly residents in U.S. nursing homes take more than two anticholinergic drugs, and 5% take more than five such drugs.

Source: www.myziva.info; February 10, 2006

14. Many nursing home residents not adequately treated for pain

A study recently published in the *Journal of the American Geriatrics Society* found that many nursing home residents have poorly controlled pain due to inadequate medication treatment. An interdisciplinary team of researchers used a Nursing Home Pain Medication Appropriateness Scale (PMAS) to screen the overall suitability of nursing homes' prescribing practices. They found that the "mean" total PMAS was only 64% of optimal. They also determined that less than 50% of the residents studied who had "predictably recurrent pain" were actually receiving pain medication. Poor pain management has a tendency to lower a person's overall quality of life and leads to other health consequences, including sleep deprivation, poor nutrition, depression and delayed healing.

Source: *Medical News Today*, March 2, 2006; McKnight's Long Term Care News and Assisted Living

15. Bill would increase PNA for Iowa nursing home residents

A bill to raise the personal needs allowance (PNA) for residents in nursing homes have passed the Iowa House. The proposed legislation, House File 2319, would increase the allowance to \$50 a month. The amount in Iowa is currently \$30 per month. According to one House Republican, the last time the state increased the allowance was in the late 1980s. The bill passed 97-0 and goes to the Senate for consideration.

Source: *Des Moines Register*, March 2, 2006

16. MA nursing home implements culture change

An article in the *Milford Daily News* highlights the culture change that is taking place at St. Camilius Health Center in Northbridge, Massachusetts. The article notes that the foundation of culture change is getting nursing home administrators to change their leadership style, so that change comes from input from residents and staff. "That's a culture change in itself," says Barbara Frank, a consultant for the Quality Partners of Rhode Island. Frank notes, "nursing homes are used to being dictated to. That hierarchical dictating-to goes all the way down the line." According to William Graves, the administrator of St. Camilius, "It's not really a policy, per se, as an attitude and philosophy." "It's about giving control of a resident's life back to the resident." St. Camilius was one of seven homes in Massachusetts that received free assistance to promote culture change. The assistance was made possible through the Centers for Medicare and Medicaid Services. Cathy Brady, who is also a consultant with the Quality Partners of Rhode Island, said that in the past, when laws were passed to improve nursing home care, "there was no system for helping nursing homes improve. What we have now is free help, around the country, from highly skilled people." The approach appears to be working at St. Camillus - where both staff and residents have embraced the idea of change.

Source: *Milford Daily News*, March 5, 2006

17. Many direct care workers lack health insurance

A policy brief by the Paraprofessional Healthcare Institute analyzes the obstacles direct care workers face in obtaining health insurance coverage. One in every four nursing home workers lacks health insurance, and direct care workers are uninsured at a rate that is 50% higher than the general population under age 65. The brief details why direct care workers are either ineligible or cannot afford health insurance if it is offered, and makes recommendations for expanding coverage to these employees. To read the brief, go to:

www.paraprofessional.org/publications/HCHCW%20PolicyBrief1Final1%2006.pdf.

Source: Family Caregiver Alliance Caregiving Policy Digest, Vol. VI, Number 4

18. Senate, IoM call for changes in QIO system

Investigators with the U.S. Senate Finance Committee have found that Medicare's process for investigating complaints through Quality Improvement Organizations (QIOs) is "broken," leaves patients in the dark, and is of "no benefit to improving the overall quality" of medical care received by millions of elderly and disabled beneficiaries. In a five page letter to the Centers for Medicare & Medicaid Services, Senator Charles Grassley, the committee chairman, noted, "There is sparse evidence to suggest that QIOs are effective." He called for federal officials to consider major reforms including redesigning the program and rebidding contracts. A new report released by the Institute of Medicine (IoM) also calls for major changes in the QIO process. The IoM study recommends that QIOs focus solely on providing technical assistance on quality improvement and that responsibility for complaint investigations be shifted to other organizations. The IoM committee also recommended that

QIOs' governing board structures be strengthened by including more representatives of other health care fields and consumers, as well as members with expertise in health information technology. The American Health Quality Association, the QIO trade group, issued a statement calling for several changes in the complaint investigation process. To read the IoM news release, go to: www4.nas.edu/news.nsf/6a3520dc2dbfc2ad85256ca8005c1381/316fdb19a1e9fa248525712c005cd062?OpenDocument.

Source: *Washington Post*, March 7, 2006; www.modernhealthcare.com, March 9, 2006; Institute of Medicine Press Release, March 9, 2006

19. Web site promotes planning for long-term care

If you are looking for long-term care information, a Web site titled, "Long Term Care Link" may assist you. Long Term Care Link is intended to serve as a noncommercial source of information on long-term care for the general public and as a reference and training source for financial planners, certified public accountants, attorneys, insurance agents and formal caregivers. It can also help in finding local long-term care providers, advisors and government services for family caregivers. The stated purpose of the Web site is to promote and support planning for long-term care. The Web site is: www.longtermcarelink.net.

Source: www.longtermcarelink.net.

Please note that the items are included for informational purposes only and do not imply endorsement by the Northern Virginia Long-Term Care Ombudsman Program or any governmental agency.

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